

GENERAL ORDINANCE NO. G- 07-88

AN ORDINANCE amending the
Municipal Code of the City of
Fort Wayne, Indiana, by prohibiting
smoking except in certain portions
of eating places

WHEREAS, It is desirable for the City of Fort
Wayne, Indiana to control and limit the smoking of tobacco,
or any weed or plant in certain portions of eating places;
and,

WHEREAS, it is necessary to amend the Municipal
Code of the City of Fort Wayne, Indiana, in order to
establish said prohibitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 18-42.1 of the Municipal
Code of the City of Fort Wayne, Indiana, of 1974, is hereby
repealed and replaced by the following language:

Sec. 18-42-1. Smoking, possession of lighted device
prohibited in certain public places; penalty.

(a) No person shall have in his possession any lighted
pipe, cigar, cigarette, or other device for human smoking
while:

- (1) In or upon any elevator in any building open to the
public or used for human habitation for more than
one family;
- (2) In any food market which term shall include, but
not necessarily be limited to, a grocery, meat
market, poultry market, fish market, fresh fruit
and vegetable market, delicatessen, confectionery,
candy kitchen, nut store, retain bakery store or
any other establishment, whether fixed or movable,
where food intended for human consumption off the
premises is manufactured, produced, stored,
prepared, handled, or sold or offered for sale at
retail or wholesale; or
- (3) In any drugstore.
- (4) In "the Non-Smoking Section of" any publicly or
privately owned restaurant, indoor cafe, shop,
cafeteria, short order cafe, luncheonette, soda
fountain, or other indoor eating establishment open
to the general public, where food is sold for
consumption on the premises in accordance with
Section 13-8.1 of this Code.

(b) All food markets and drugstores shall display a
sign in a conspicuous location on or near the entrance of the
establishment which sign shall recite the prohibition against
smoking therein.

(c) All such indoor eating establishments shall display
a sign in a conspicuous location on or near the entrance of
the establishment, which sign shall recite the prohibition
against smoking in " No Smoking " areas within said
establishment.

(d) Any person who shall violate the provisions of
subsection (a) shall be guilty of a misdemeanor punishable by
a fine of not more than one hundred dollars (\$100.00).

1 Section 2. That Chapter 13 of the Municipal Code
2 of the City of Fort Wayne, of 1974 is amended by adding
3 thereto the following section.

4 Section 13-8.1 Smoking Prohibitions in portions of
5 indoor eating establishments.

6 (a) The proprietor or other persons in charge of any
7 publicly or privately-owned restaurant, indoor cafe, shop,
8 cafeteria, short order cafe, luncheonette, soda fountain, or
9 other indoor eating establishment open to the general public
10 where food is sold for consumption on the premises shall
11 designate at least a portion of the area where food is
12 consumed as a "No Smoking" area. The designation must be by
13 signs. No person shall smoke in any "No Smoking" area
14 designated in accordance with this section.

15 (b) For the purposes of this section "Smoke" or
16 "Smoking" means that carrying or holding of a lighted pipe,
17 cigar or cigarette of any kind or any other lighted smoking
18 equipment or the lighting or emitting or exhaling of the
19 smoke of a pipe, cigar, or cigarette of any kind.

20 (c) The prohibitions, requirements or duties of this
21 section shall not apply to banquet rooms in use for private
22 functions, cocktail lounges or bars, including cocktail
23 lounges and bars within any indoor eating establishment where
24 such cocktail lounges or bars are primarily engaged in the
25 business of selling or dispensing alcoholic or other
26 beverages, even if food or snacks are also served. When a
27 cocktail lounge or bar is operated within a building in
28 conjunction with another use, such as an eating
29 establishment, only the area utilized primarily for the
30 serving and consumption of alcoholic beverages shall
31 constitute the cocktail lounge or bar. The dining area of an
32 eating establishment utilized primarily for the serving and
consumption of food shall not constitute a cocktail lounge or
bar, even though alcoholic beverages may be served therein.

(d) At least once each six months, or more frequently
if determined necessary by the health officer, the health
officer shall inspect each indoor eating establishment for
the purposes of monitoring compliance with the terms of this
section. If during the inspection of any such indoor eating
establishment, the health officer discovers a violation of
the terms of this section, the health officer shall issue a
written order listing such violation to the owner or manager,
or, in his absence, any other person ostensibly in charge,
and fixing a time within which such operator of such indoor
eating establishment shall abate and remedy such violation.
A copy of the written order shall be filed in the records of
the Department of Public Health. If, after issuing such a
written warning, and upon the expiration of the time within
which operator of such indoor eating establishment fails to
abate and remedy such violation, a health officer shall
thereafter observe a willful violation of the provisions of
this section in any indoor eating establishment, such health
officer shall forward evidence of such willful violation to
the City Attorney, who shall prosecute all persons willfully
violating this section, and shall subject those persons to
the penalties provided for below.

(e) Any person that willfully violates any of the
provisions of this section shall be deemed guilty of a
misdemeanor. Upon conviction the violator shall be punished
by a fine of not more than five hundred dollars (\$500.00).

Section 3. Severability. If any provision,
section or part of any section of this ordinance is declared
to be invalid or unconstitutional, such declaration shall not
be construed to affect any of the other provisions, sections

or parts of sections herein, and the remainder of this ordinance shall not thereby be invalidated.

Section 4. That this ordinance shall be in full force and effect after its passage, and any and all necessary approval by the Mayor, and after proper publication thereof.

Janet G. Bradbury
Councilmember

Passed 5-11-88
Signed by Mayor

3 AN ORDINANCE amending the
4 Municipal Code of the City of
5 Fort Wayne, Indiana, by prohibiting
6 smoking except in certain portions
7 of eating places.

8 WHEREAS, It is desirable for the City of Fort Wayne,
9 Indiana to control and limit the smoking of tobacco, or any weed
10 or plant in certain portions of eating places; and,

11 WHEREAS, it is necessary to amend the Municipal Code
12 of the City of Fort Wayne, Indiana, in order to establish said
13 prohibitions.

14 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
15 OF THE CITY OF FORT WAYNE, INDIANA:

16 Section 1. That Section 18-42.1 of the Municipal Code
17 of the City of Fort Wayne, Indiana, of 1974, is hereby repealed
18 and replaced by the following language:

19 Sec. 18-42-1. Smoking, possession of lighted device prohibited
20 in certain public places; penalty.

21 (a) No person shall have in his possession any lighted
22 pipe, cigar, cigarette, or other device for human smoking while:

- 23 (1) In or upon any elevator in any building open to the
24 public or used for human habitation for more than one
25 family;
- 26 (2) In any food market which term shall include, but not
27 necessarily be limited to, a grocery, meat market,
28 poultry market, fish market, fresh fruit and vegetable
29 market, delicatessen, confectionery, candy kitchen,
30 nut store, retain bakery store or any other establish-
31 ment, whether fixed or movable, where food intended
32 for human consumption off the premises is manufac-
tured, produced, stored, prepared, handled, or sold or
offered for sale at retail or wholesale; or
- (3) In any drugstore.
- (4) In any publicly or privately owned restaurant, indoor
cafe, shop, cafeteria, short order cafe, luncheonette,
soda fountain, or other indoor eating establishment
open to the general public, where food is sold for
consumption on the premises except in a "Smoking
Permitted" area designated in accordance with Section
13-8.1 of this Code.

1 Page Two

2 (b) All food markets and drugstores shall display a sign
3 in a conspicuous location on or near the entrance of the
4 establishment which sign shall recite the prohibition against
5 smoking therein.

6 (c) All such indoor eating establishments shall display a
7 sign in a conspicuous location on or near the entrance of the
8 establishment, which sign shall recite the prohibition against
9 smoking therein except in "Smoking Permitted" areas within said
10 establishment.

11 (d) Any person who shall violate the provisions of subsec-
12 tion (a) shall be guilty of a misdemeanor punishable by a fine
13 of not more than one hundred dollars (\$100.00).

14 Section 2. That Chapter 13 of the Municipal Code of
15 the City of Fort Wayne, of 1974 is amended by adding thereto the
16 following section.

17 Section 13-8.1. Smoking Prohibitions in portions of indoor
18 eating establishments.

19 (a) Smoking shall be prohibited in any publicly or priva-
20 tely owned restaurant, indoor cafe, shop, cafeteria, short order
21 cafe, luncheonette, soda fountain, or other indoor eating
22 establishment open to the general public where food is sold for
23 consumption on the premises. However, the manager or person in
24 charge may designate not more than one-half (1/2) of the area
25 where food is consumed as a "Smoking Permitted" area. The
26 designation may be either by signs or by orally informing custo-
27 mers of the "Smoking Permitted" area. A person shall only smoke
28 in any "Smoking Permitted" area designated in accordance with
29 this section.

30 (b) For the purposes of this section "Smoke" or "Smoking"
31 means that carrying or holding of a lighted pipe, cigar or
32 cigarette of any kind or any other lighted smoking equipment or
the lighting or emitting or exhaling of the smoke of a pipe,
cigar, or cigarette of any kind.

(c) The prohibitions, requirements or duties of this sec-
tion shall not apply to banquet rooms in use for private func-
tions, cocktail lounges or bars, including cocktail lounges and

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2 bars within any indoor eating establishment where such cocktail
3 lounges or bars are primarily engaged in the business of selling
4 or dispensing alcoholic or other beverages, even if food or
5 snacks are also served. When a cocktail lounge or bar is
6 operated within a building in conjunction with another use, such
7 as an eating establishment, only the area utilized primarily for
8 the serving and consumption of alcoholic beverages shall consti-
9 tute the cocktail lounge or bar. The dining area of an eating
10 establishment utilized primarily for the serving and consumption
11 of food shall not constitute a cocktail lounge or bar, even
12 though alcoholic beverages may be served therein.

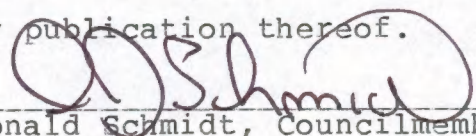
13 (d) At least once each six months, or more frequently if
14 determined necessary by the health officer, the health officer
15 shall inspect each indoor eating establishment for the purposes
16 of monitoring compliance with the terms of this section. If
17 during the inspection of any such indoor eating establishment,
18 the health officer discovers a violation of the terms of this
19 section, the health officer shall issue a written order listing
20 such violation to the owner or manager, or, in his absence, any
21 other person ostensibly in charge, and fixing a time within
22 which such operator of such indoor eating establishment shall
23 abate and remedy such violation. A copy of the written order
24 shall be filed in the records of the Department of Public
25 Health. If, after issuing such a written warning, and upon the
26 expiration of the time within which operator of such indoor
27 eating establishment fails to abate and remedy such violation, a
28 health officer shall thereafter observe a willful violation of
29 the provisions of this section in any indoor eating establish-
30 ment, such health officer shall forward evidence of such willful
31 violation to the City Attorney, who shall prosecute all persons
32 willfully violating this section, and shall subject those per-
sons to the penalties provided for below.

Page Four

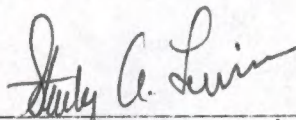
(e) Any person that willfully violates any of the provisions of this section shall be deemed guilty of a misdemeanor. Upon conviction the violator shall be punished by a fine of not more than five hundred dollars (\$500.00).

Section 3. Severability. If any provision, section or part of any section of this ordinance is declared to be invalid or unconstitutional, such declaration shall not be construed to affect any of the other provisions, sections or parts of sections herein, and the remainder of this ordinance shall not thereby be invalidated.

Section 4. That this ordinance shall be in full force and effect after its passage, and any and all necessary approval by the Mayor, and after proper publication thereof.


Donald Schmidt, Councilmember

APPROVED AS TO FORM
AND LEGALITY:


Stanley A. Levine
Legal Advisor to the Common
Council of the City of Fort Wayne

Read the first time in full and on motion by Bradbury, seconded by Stew, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 4-12-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Schmidt, seconded by Stew, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>1</u>		
<u>BRADBURY</u>	<u>✓</u>			
<u>BURNS</u>	<u>✓</u>			
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>REDD</u>		<u>✓</u>		
<u>SCHMIDT</u>	<u>✓</u>			
<u>STIER</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 5-10-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. B-07-88

on the 10th day of May, 1988,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Thomas E. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of May, 1988, at the hour of 2:00 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11th day of May, 1988, at the hour of 3:30 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

BILL NO. G-88-04-01 (as amended)

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

WE, YOUR COMMITTEE ON PUBLIC RELATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the
Municipal Code of the City of Fort Wayne, Indiana, by prohibiting
smoking except in certain portions of eating places

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~) Do Pass.

YES

NO

JAMES S. STIER

CHAIRMAN

DONALD J. SCHMIDT

VICE CHAIRMAN

CHARLES B. REDD

DAVID C. LONG

MARK E. GIAGUINTA

PAUL M. BURNS

SAMUEL J. TALARICO

THOMAS C. HENRY

JANET G. BRADBURY

CONCURRED IN _____

SANDRA E. KENNEDY
CITY CLERK

Amendment

David Long

MEMORANDUM

DATE: April 26, 1988

TO: All Councilmembers, Stan Levine, Sandy Kennedy

FROM: David Long, 4th District City Councilman

RE: Amendment to Bill No. G-88-04-01 (No-Smoking Ordinance)

These revisions require a portion of a restaurant to be designated and posted as a "NO SMOKING" area. However, it allows the restaurateur to determine what percentage of the restaurant will be so designated:

- 1). On page one, line 28, the words "the Non-Smoking Section of" are inserted between the words "In" and "any". The following words are deleted from lines 30 and 31: "except in a 'Smoking Permitted' area designated".
- 2). On page two, line 6, the words "therein except" are deleted. "Smoking Permitted" is deleted and replaced with "No Smoking".
- 3). On page two, lines 13 through 24, Section 13-8.1.(a) is deleted and replaced with the following language:

(a) The proprietor or other persons in charge of any publicly or privately-owned restaurant, indoor cafe, shop, cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public where food is sold for consumption on the premises shall designate at least a portion of the area where food is consumed as a "No Smoking" area. The designation must be by signs. No person shall smoke in any "No Smoking" area designated in accordance with this section.

Please find the attached copy of the original bill, with notations made reflecting these revisions.

c. c. file

DCL/klj

1 BILL NO. G-88-04-01

2 GENERAL ORDINANCE NO. _____

3 AN ORDINANCE amending the
4 Municipal Code of the City of
5 Fort Wayne, Indiana, by prohibiting
6 smoking except in certain portions
7 of eating places.

8 WHEREAS, It is desirable for the City of Fort Wayne,
9 Indiana to control and limit the smoking of tobacco, or any weed
10 or plant in certain portions of eating places; and,

11 WHEREAS, it is necessary to amend the Municipal Code
12 of the City of Fort Wayne, Indiana, in order to establish said
13 prohibitions.

14 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
15 OF THE CITY OF FORT WAYNE, INDIANA:

16 Section 1. That Section 18-42.1 of the Municipal Code
17 of the City of Fort Wayne, Indiana, of 1974, is hereby repealed
18 and replaced by the following language:

19 Sec. 18-42-1. Smoking, possession of lighted device prohibited
20 in certain public places; penalty.

21 (a) No person shall have in his possession any lighted
22 pipe, cigar, cigarette, or other device for human smoking while:

23 (1) In or upon any elevator in any building open to the
24 public or used for human habitation for more than one
25 family;

26 (2) In any food market which term shall include, but not
27 necessarily be limited to, a grocery, meat market,
28 poultry market, fish market, fresh fruit and vegetable
29 market, delicatessen, confectionery, candy kitchen,
30 nut store, retain bakery store or any other establish-
31 ment, whether fixed or movable, where food intended
32 for human consumption off the premises is manufac-
33 tured, produced, stored, prepared, handled, or sold or
34 offered for sale at retail or wholesale; or

35 (3) In any drugstore.
36 *the "No-Smoking" Section of*

37 (4) In ~~any~~ publicly or privately owned restaurant, indoor
38 cafe, shop, cafeteria, short order cafe, luncheonette,
39 soda fountain, or other indoor eating establishment
40 open to the general public, where food is sold for
41 consumption on the premises ~~except in a "Smoking~~
42 ~~Permitted" area designated~~ in accordance with Section
43 13-8.1 of this Code.

(b) All food markets and drugstores shall display a sign in a conspicuous location on or near the entrance of the establishment which sign shall recite the prohibition against smoking therein.

(c) All such indoor eating establishments shall display a sign in a conspicuous location on or near the entrance of the establishment, which sign shall recite the prohibition against smoking ~~therein except~~ in "Smoking Permitted" areas within said establishment. **1 "No Smoking"**

(d) Any person who shall violate the provisions of subsection (a) shall be guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).

Section 2. That Chapter 13 of the Municipal Code of the City of Fort Wayne, of 1974 is amended by adding thereto the following section.

Section 13-8.1. Smoking Prohibitions in portions of indoor eating establishments.

(See replacement language under #3 on memo)

~~(a) Smoking shall be prohibited in any publicly or privately owned restaurant, indoor cafe, shop, cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public where food is sold for consumption on the premises. However, the manager or person in charge may designate not more than one-half (1/2) of the area where food is consumed as a "Smoking Permitted" area. The designation may be either by signs or by orally informing customers of the "Smoking Permitted" area. A person shall only smoke in any "Smoking Permitted" area designated in accordance with this section.~~

(b) For the purposes of this section "Smoke" or "Smoking" means that carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or the lighting or emitting or exhaling of the smoke of a pipe, cigar, or cigarette of any kind.

(c) The prohibitions, requirements or duties of this section shall not apply to banquet rooms in use for private functions, cocktail lounges or bars, including cocktail lounges and

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2 bars within any indoor eating establishment where such cocktail
3 lounges or bars are primarily engaged in the business of selling
4 or dispensing alcoholic or other beverages, even if food or
5 snacks are also served. When a cocktail lounge or bar is
6 operated within a building in conjunction with another use, such
7 as an eating establishment, only the area utilized primarily for
8 the serving and consumption of alcoholic beverages shall consti-
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11 of food shall not constitute a cocktail lounge or bar, even
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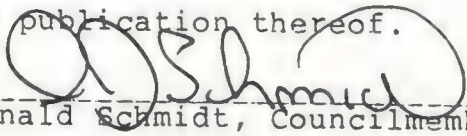
13 (d) At least once each six months, or more frequently if
14 determined necessary by the health officer, the health officer
15 shall inspect each indoor eating establishment for the purposes
16 of monitoring compliance with the terms of this section. If
17 during the inspection of any such indoor eating establishment,
18 the health officer discovers a violation of the terms of this
19 section, the health officer shall issue a written order listing
20 such violation to the owner or manager, or, in his absence, any
21 other person ostensibly in charge, and fixing a time within
22 which such operator of such indoor eating establishment shall
23 abate and remedy such violation. A copy of the written order
24 shall be filed in the records of the Department of Public
25 Health. If, after issuing such a written warning, and upon the
26 expiration of the time within which operator of such indoor
27 eating establishment fails to abate and remedy such violation, a
28 health officer shall thereafter observe a willful violation of
29 the provisions of this section in any indoor eating establish-
30 ment, such health officer shall forward evidence of such willful
31 violation to the City Attorney, who shall prosecute all persons
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 sons to the penalties provided for below.

1 Page Four

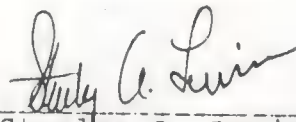
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3 sions of this section shall be deemed guilty of a misdemeanor.
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5 more than five hundred dollars (\$500.00).

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11 thereby be invalidated.

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14 the Mayor, and after proper publication thereof.

15 
16 _____
Donald Schmidt, Councilmember

17 APPROVED AS TO FORM
18 AND LEGALITY:

19 
20 _____
Stanley A. Levine
21 Legal Advisor to the Common
22 Council of the City of Fort Wayne
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THE CITY OF FORT WAYNE

May 12, 1988

Ms. Marilyn Romine
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Romine:

Please give the attached full coverage on the dates of
May 18 & May 25, 1988, in the both the News Sentinel
and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-88-04-01 (as amended)
General Ordinance No. G-07-88
Smoking Ordinance

Please send us 4 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,

A handwritten signature in cursive script that reads "Sandra E. Kennedy".

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 10th day of
May, 19 88, the Common Council of the City
of Fort Wayne, Indiana, in a Regular Session did pass
the following Bill No. G-88-04-01 (as amended) General
Ordinance No. G-07-88 to-wit:

BILL NO. G-88-04-01 (as amended)

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24 such cocktail lounges or bars are primarily engaged in the
25 business of selling or dispensing alcoholic or other
26 beverages, even if food or snacks are also served. When a
27 cocktail lounge or bar is operated within a building in
28 conjunction with another use, such as an eating
29 establishment, only the area utilized primarily for the
30 serving and consumption of alcoholic beverages shall
31 constitute the cocktail lounge or bar. The dining area of an
32 eating establishment utilized primarily for the serving and
consumption of food shall not constitute a cocktail lounge or
bar, even though alcoholic beverages may be served therein.

(d) At least once each six months, or more frequently
if determined necessary by the health officer, the health
officer shall inspect each indoor eating establishment for
the purposes of monitoring compliance with the terms of this
section. If during the inspection of any such indoor eating
establishment, the health officer discovers a violation of
the terms of this section, the health officer shall issue a
written order listing such violation to the owner or manager,
or, in his absence, any other person ostensibly in charge,
and fixing a time within which such operator of such indoor
eating establishment shall abate and remedy such violation.
A copy of the written order shall be filed in the records of
the Department of Public Health. If, after issuing such a
written warning, and upon the expiration of the time within
which operator of such indoor eating establishment fails to
abate and remedy such violation, a health officer shall
thereafter observe a willful violation of the provisions of
this section in any indoor eating establishment, such health
officer shall forward evidence of such willful violation to
the City Attorney, who shall prosecute all persons willfully
violating this section, and shall subject those persons to
the penalties provided for below.

(e) Any person that willfully violates any of the
provisions of this section shall be deemed guilty of a
misdemeanor. Upon conviction the violator shall be punished
by a fine of not more than five hundred dollars (\$500.00).

Section 3. Severability. If any provision,
section or part of any section of this ordinance is declared
to be invalid or unconstitutional, such declaration shall not
be construed to affect any of the other provisions, sections

or parts of sections herein, and the remainder of this ordinance shall not thereby be invalidated.

Section 4. That this ordinance shall be in full force and effect after its passage, and any and all necessary approval by the Mayor, and after proper publication thereof.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Schmidt, seconded by Stier, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bradbury, Burns, GiaQuinta, Henry, Long,
Schmidt, Stier, Talarico
NAYS: One
Redd

DATE: 5-10-88 Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-07-88 on the 10th day of May, 1988.

ATTEST: (SEAL)

Sandra E. Kennedy Thomas C. Henry
City Clerk Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of May, 1988, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 11th day of May, 1988, at the hour of 3:30 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of _____ General _____ Ordinance No. _____ G-07-88 _____, passed by the Common Council on the _____ 10th _____ day of _____ May _____, 19 _____ 88 _____, and that said Ordinance was duly signed and approved by the Mayor on the _____ 11th _____ day of _____ May _____, 19 _____ 88 _____, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this _____ 11th _____ day of _____ May _____, 19 _____ 88 _____.

SEAL

SANDRA E. KENNEDY, CITY CLERK

Ft. Wayne Common Council
(Governmental Unit)

Allen
County, Indiana

To: The Journal-Gazette
P.O. Box 100
Fort Wayne, IN

Dr.

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines	1
Body -- number of lines	186
Tail -- number of lines	2
Total number of lines in notice	189

LEGAL NOTICE

Notice is hereby given that on the 10th day of May, 1988, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-88-04-01 (as amended) General Ordinance No. G-07-88 to wit:

BILL NO. G-88-04-01 (as amended)
GENERAL ORDINANCE NO. G- 07-88
AN ORDINANCE amending the
Municipal Code of the City of
Fort Wayne, Indiana, by prohibiting
smoking except in certain portions
of eating places

WHEREAS, it is desirable for the City of Fort Wayne, Indiana to control and limit the smoking of tobacco, or any weed or plant in certain portions of eating places; and,

WHEREAS, it is necessary to amend the Municipal Code of the City of Fort Wayne, Indiana, in order to establish said prohibitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 18-42.1 of the Municipal Code of the City of Fort Wayne, Indiana, of 1974, is hereby repealed and replaced by the following language:

Sec. 18-42-1. Smoking, possession of lighted device prohibited in certain public places; penalty.

(a) No person shall have in his possession any lighted pipe, cigar, cigarette, or other device for human smoking while:

(1) In or upon any elevator in any building open to the public or used for human habitation for more than one family;

(2) In any food market which term shall include, but not necessarily be limited to, a grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionary, candy kitchen, nut store, retail bakery store or any other establishment, whether fixed or movable, where food intended for human consumption off the premises is manufactured, produced, stored, prepared, handled, or sold or offered for sale at retail or wholesale; or

(3) In any drugstore.

(4) In "the Non-Smoking Section of" any publicly or privately owned restaurant, indoor cafe, shop, cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public, where food is sold for consumption on the premises in accordance with Section 13-8.1 of this code.

(b) All food markets and drugstores shall display a sign in a conspicuous location on or near the entrance of the establishment which sign shall recite the prohibition against smoking therein.

(c) All such indoor eating establishments shall display a sign in a conspicuous location on or near the entrance of the establishment, which sign shall recite the prohibition against smoking in "No Smoking" areas within said establishment.

(d) Any person who shall violate the provisions of subsection (a) shall be guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).

Section 2. That Chapter 13 of the Municipal Code of the City of Fort Wayne, of 1974 is amended by adding thereto the following section.

Section 13-8.1 Smoking Prohibitions in portions of indoor eating establishments.

(a) The proprietor or other persons in charge of any publicly or privately-owned restaurant, indoor cafe, shop, cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public where food is sold for consumption on the premises shall designate at least a portion of the area where food is consumed as a "No Smoking" area. The designation must be by signs. No person shall smoke in any "No Smoking" area designated in accordance with this section.

(b) For the purposes of this section "Smoke" or "Smoking" means that carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or the lighting or emitting or exhaling of the smoke of a pipe, cigar, or cigarette of any kind.

(c) The prohibitions, requirements or duties of this section shall not apply to banquet rooms in use for private functions, cocktail lounges or bars, including cocktail lounges and bars within any indoor eating establishment where such cocktail lounges or bars are primarily engaged in the business of selling or dispensing alcoholic or other beverages, even if food or snacks are also served. When a cocktail lounge or bar is operated within a building in conjunction with another use, such as an eating establishment, only the area utilized primarily for the serving and consumption of alcoholic beverages shall constitute the cocktail lounge or bar. The dining area of an eating establishment utilized primarily for the serving and consumption of food shall not constitute a cocktail lounge or bar. The dining area of an eating establishment utilized primarily for the serving and consumption of food shall not constitute a cocktail lounge or bar, even though alcoholic beverages may be served therein.

(d) At least once each six months, or more frequently if determined necessary by the health officer, the health officer shall inspect each indoor eating establishment for the purposes of monitoring compliance with the terms of this section. If during the inspection of any such indoor eating establishment, the health officer discovers a violation of the terms of this section, the health officer shall issue a written order listing such violation to the owner or manager or, in his absence, any other person ostensibily in charge, and

fixing a time within which such operator of such indoor eating establishment shall abate and remedy such violation. A copy of the written order shall be filed in the records of the Department of Public Health. If, after issuing such a written warning, and upon the expiration of the time within which operator of such indoor eating establishment fails to abate and remedy such violation, a health officer shall thereafter observe a willful violation for the provisions of this section in any indoor eating establishment, such health officer shall forward evidence of such willful violation to the City Attorney, who shall prosecute all persons willfully violating this section, and shall subject those persons to the penalties provided for below.

(e) Any person that willfully violates any of the provisions of this section shall be deemed guilty of a misdemeanor. Upon conviction the violator shall be punished by a fine or not more than five hundred dollars. (\$500.00).

Section 3. Severability. If any provision, section or part of any section of this ordinance is declared to be invalid or unconstitutional, such declaration shall not be construed to affect any of the other provisions, sections or parts of sections herein, and the remainder of this ordinance shall not thereby be invalidated.

Section 4. That this ordinance shall be in full force and effect after its passage, and any and all necessary approval by the Mayor, and after proper publication thereof.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Schmidt, seconded by Stier, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bradbury, Burns, GiaQuinta, Henry, Long, Schmidt,
Stier, Talarico
NAYS: One
Redd
DATE: 5-10-88

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-07-88 on the 10th day of May, 1988.

ATTEST:
Sandra E. Kennedy
City Clerk

(SEAL)
Thomas G. Henry
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of May, 1988 at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 11th day of May, 1988, at the hour of 3:30 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-07-88 passed by the Common Council on the 10th day of May, 1988, and that said Ordinance was duly signed and approved by the Mayor on the 11th day of May, 1988, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 11th day of May, 1988.

Sandra E. Kennedy
City Clerk

5-18-25

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\$95.56

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Trudy Sterling
Clerk

FFIDAVIT

Personally appeared before me, a notary public in and for said county and state, the undersigned Trudy Sterling who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time s, the dates of publication being as follows:

5/18, 25/88

Trudy Sterling

Subscribed and sworn to before me this 25th day of May, 19 88

Shelley R. LaRue
Notary Public

Shelley R. LaRue

My commission expires: March 3, 1990

Ft. Wayne Common Council

(Governmental Unit)

Allen

County, Indiana

To:

The Journal-Gazette

Dr.

P.O. Box 100

Fort Wayne, IN

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

1

Body -- number of lines

186

Tail -- number of lines

2

Total number of lines in notice

189

COMPUTATION OF CHARGES

189 lines, 1 columns wide equals 189 equivalent lines
at .495 cents per line

\$93.56

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$95.56

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 2

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: May 25, 19 88

Title:

Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

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Notary Public

Shelley R. LaRue

My commission expires: March 3, 1990

Metro

SACS

By MADELYN DINNERSTEIN
Staff Writer

School money should not be spent to operate a swimming pool, Southwest Allen County Schools voters told the board Tuesday.

The vote, in an unofficial referendum, was 959-735 against using school money to run a pool, even if someone pays the bill for building it.

In March, the SACS board passed

Form Prescribed by State Board of Accounts
Ft. Wayne Common Council
(Governmental Unit)
Allen County, Indiana

General Form No. 99P (Revised 1987)
To: The News-Sentinel
P.O. Box 100
Fort Wayne, IN
Dr.

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Rudy Sterling

Date: May 25, 19 88

Title: Clerk

PUBLISHER'S AFFIDAVIT

LEGAL NOTICE

Notice is hereby given that on the 10th day of May, 1988, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-88-04-01 (as amended) General Ordinance No. G-07-88 to wit:

BILL NO. G-88-04-01 (as amended)

GENERAL ORDINANCE NO. G-07-88

AN ORDINANCE amending the

Municipal Code of the City of

Fort Wayne, Indiana, by prohibiting

smoking except in certain portions

of eating places

WHEREAS, it is desirable for the City of Fort Wayne, Indiana to control and limit the smoking of tobacco, or any weed or plant in certain portions of eating places; and

WHEREAS, it is necessary to amend the Municipal Code of the City of Fort Wayne, Indiana, in order to establish said prohibitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 18-42.1 of the Municipal Code of the City of Fort Wayne, Indiana, of 1974, is hereby repealed and replaced by the following language:

Sec. 18-42-1. Smoking, possession of lighted device prohibited in certain public places; penalty.

(a) No person shall have in his possession any lighted pipe, cigar, cigarette, or other device for human smoking while:

(1) In or upon any elevator in any building open to the public or used for human habitation for more than one family;

(2) In any food market which term shall include, but not necessarily be limited to, a grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionary, candy kitchen, nut store, retail bakery store or any other establishment, whether fixed or movable, where food intended for human consumption off the premises is manufactured, produced, stored, prepared, handled, or sold or offered for sale at retail or wholesale; or

(3) In any drugstore.

(4) In "the Non-Smoking Section of" any publicly or privately owned restaurant, indoor cafe, shop,

(State of Indiana)

cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public, where food is sold for consumption on the premises in accordance with Section 13-8.1 of this code.

(b) All food markets and drugstores shall display a sign in a conspicuous location on or near the entrance of the establishment which sign shall recite the prohibition against smoking therein.

(c) All such indoor eating establishments shall display a sign in a conspicuous location on or near the entrance of the establishment, which sign shall recite the prohibition against smoking in "No Smoking" areas within said establishment.

(d) Any person who shall violate the provisions of subsection (a) shall be guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).

Section 2. That Chapter 13 of the Municipal Code of the City of Fort Wayne, of 1974 is amended by adding thereto the following section.

Section 13-8.1 Smoking Prohibitions in portions of indoor eating establishments.

(a) The proprietor or other persons in charge of any publicly or privately-owned restaurant, indoor cafe, shop, cafeteria, short order cafe, luncheonette, soda fountain, or other indoor eating establishment open to the general public where food is sold for consumption on the premises shall designate at least a portion of the area where food is consumed as a "No Smoking" area. The designation must be by signs. No person shall smoke in any "No Smoking" area designated in accordance with this section.

(b) For the purposes of this section "Smoke" or "Smoking" means that carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or the lighting or emitting or exhaling of the smoke of a pipe, cigar, or cigarette of any kind.

(c) The prohibitions, requirements or duties of this section shall not apply to banquet rooms in use for private functions, cocktail lounges or bars, including cocktail lounges and bars within any indoor eating establishment where such cocktail lounges or bars are primarily engaged in the business of selling or dispensing alcoholic or other beverages, even if food or snacks are also served. When a cocktail lounge or bar is operated within a building in conjunction with

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Janet C. Cour

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seconded by Stier, and duly adopted, pl

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AYES: Eight

Bradbury, Burns, GiaQuinta, Henry, Lon

Stier, Talarico

NAYS: One

Redd

DATE: 5-10-88

Sandra I

Passed and adopted by the Common Co

City of Fort Wayne, Indiana as General Or

G-07-88 on the 10th day of May, 1988.

ATTEST:

Sandra E. Kennedy

City Clerk

Thom

Presented by me to the Mayor of the C

Wayne, Indiana, on the 11th day of May,

hour of 2:00 o'clock P.M., E.S.T.

Sandra

Approved and signed by me this 11th c

1988, at the hour of 3:30 o'clock P.M., E

P

I, The Clerk of the City of Fort Wayne,

hereby certify that the above and forego

true and complete copy of General Or

G-07-88 passed by the Common Council

day of May, 1988, and that said Ordina

signed and approved by the Mayor on the

May, 1988, and now remains on file and c

my office.

WITNESS my hand, and the official seal c

Fort Wayne, Indiana, this 11th day of Ma

Sandra

Ft. Wayne Common Council

(Governmental Unit)

To:

The News-Sentinel

Dr.

Allen

County, Indiana

P.O. Box 100

Fort Wayne, IN

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

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Body -- number of lines

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Tail -- number of lines

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Total number of lines in notice

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(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

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TOTAL AMOUNT OF CLAIM

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DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 2

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: May 25, 19 88

Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Trudy Sterling who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time s, the dates of publication being as follows:

5/18, 25/88

Subscribed and sworn to before me this 25th day of May, 19 88.

Shelley R. LaRue

Notary Public

My commission expires: March 3, 1990

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estimates. 432-6073

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ences. 478-2430 or 747-2249.

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Small or Big Jobs.
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decks, remodeling. 483-0122

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